

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAURENCE MALZBERG,

Plaintiff,

Case No. 19 Civ. 10048 (LJL)

- against -

NEW YORK UNIVERSITY,

Defendant.

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**DECLARATION OF SCOTT SIMPSON IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

I, Scott Simpson, declare and affirm, pursuant to 28 U.S.C. § 1746 and subject to the penalty of perjury, that the following is true and correct:

1. I am admitted to practice law in the State of New York and a member in good standing in this Judicial District of the United States Federal Courts. I am a partner in the firm of Menken Simpson & Rozger LLP in New York, New York and, along with the Raya F. Saksouk, an associate of the firm, I represent Plaintiff Laurence Malzberg in this case. I submit this declaration in opposition to Defendant's Motion for Summary Judgment. I have personal knowledge of the facts set forth herein.

2. True and correct copies of the following exhibits in support of Plaintiff's Opposition to Defendants' Motion Summary Judgment are annexed hereto as:

Exhibit	Description of Exhibit
1	Excerpts of the Transcript of the deposition of Dr. Akhilesh Sista, conducted on August 20, 2020, including pages 9, 32, 45-46, 52, 55-58, 62-67, 70-72, 79-83, 111-12, 114-15, 121-28, and 143-44.

2	Expert report of Dr. Jeff Silber, dated March 25, 2021.
3	Excerpts of the Transcript of the deposition of Plaintiff Laurence Malzberg, conducted on August 18, 2020, including pages 11-12, 14-15, 17-19, 55-56, 61, 64-68, 71-76, 79-85, 87, 110-15, 125-26, 128-30, 134, 136-38, 141-54, 158, 168, 171, 173-175, 179-80, 183-84, 186-87, 193-95, 207-15, 217-18, 220-21, 233-34, 236-38, 252, and 261.
4	A true and accurate copy of Plaintiff's November 13, 2008 MRI report, produced by Plaintiff and bearing Bates numbers P177-78.
5	A true and accurate copy of Plaintiff's March 29, 2019 MRI reports, produced by Plaintiff and bearing Bates numbers P113-14 and P168-69.
6	A true and accurate copy of Plaintiff's November 18, 2019 medical records, by Dr. Kiril Kiproviski, bearing Bates numbers P133, 134, and 139.
7	A true and accurate copy of Plaintiff's December 26, 2019 MRI reports bearing Bates numbers P140-42 and P172-74.
8	A true and accurate copy of Plaintiff's November 21, 2019 medical records, by Dr. Robert Meislin, bearing Bates numbers P314-316 and P318.
9	A true and accurate copy of Plaintiff's resume bearing Bates numbers P235-36.
10	Excerpts of the Transcript of the deposition of Dr. Leon Rybak, conducted on August 28, 2020, including page numbers 7, 11-12, 14, 28, 31-32, 66-67, 69-71, 73-75, 77-80, 83, 85-86, 88-90, 92-93, 121-22, 124, 127-31, 139, 144, 145-47, 151, 155, and 157.
11	Excerpts of the Transcript of the deposition of Daniel Alexa, conducted on September 16, 2020, including page numbers 6-8, 27, 41-42, 60, 70-73, 86-87, 91-92, 97-102, 104, 117-20, 130-31, and 144.
12	A true and accurate copy of an email thread between Daniel Alexa and Michael Recht, dated January 24 and January 27, 2019, and bearing Bates numbers NYU1402-03.
13	A true and accurate copy of Defendant's "ADA & Requests for Accommodations Policy Statement," dated July 2017 and bearing Bates number NYU601.
14	A true and accurate copy of the internal job posting for the March 2019 PA position in Interventional Radiology, bearing Bates number NYU1210.
15	A true and accurate copy of emails exchanged between and among Daniel Alexa, Dr. Akhilesh Sista, Dr. Leon Rybak, and Plaintiff on February 13, February 25,

	and March 15, 2019, bearing Bates numbers NYU706-07.
16	Excerpts of the Transcript of the deposition of Kathleen Pacina, conducted on September 24, 2020, including page numbers 14-15, 47-48, 58-60, 70-71, 88-93, and 114.
17	Excerpts of the Transcript of the deposition of Evelyn Taveras, conducted on September 14, 2020, including page numbers 46-48, 50-51, 55-56, 60-62, 67, 70, and 77-78.
18	Excerpts of the Transcript of the deposition of John Davidson, conducted on September 2, 2020, including page numbers 21, 43-44, 50-51, 54-56, and 67-70.
19	A true and accurate copy of text messages sent from Plaintiff to Dr. Leon Rybak on March 15, 2019, bearing Bates numbers P26-27.
20	A true and accurate copy of emails sent by Mandy Woodley on March 14 and March 15, 2019, bearing Bates numbers NYU344 and NYU353-54.
21	Excerpts of the Transcript of the deposition of Mandy Woodley, conducted on September 10, 2020, including page numbers 7-8, 49-50, 63-68, 73-77, 79-80, 93-96, and 99-100.
22	A true and accurate copy of an email from Evelyn Taveras to Plaintiff dated March 28, 2019, bearing Bates numbers NYU278-79.
23	A true and accurate copy of Daniel Alexa's March 26, 2019 letter and its corresponding draft dated March 22, 2019, bearing Bates numbers NYU586 and NYU3782-86.
24	A true and accurate copy of emails between Evelyn Taveras and Daniel Alexa dated March 27, 2019, bearing Bates number NYU709.
25	A true and accurate copy of internal HR emails dated April 8 and April 9, 2019, bearing Bates numbers NYU49-51.
26	A true and accurate copy of page 48 of Defendant's Handbook bearing Bates number NYU383.
27	A true and accurate copy of emails exchange between and among Plaintiff, John Davidson, and Mandy Woodley on March 15 and March 16, 2019, bearing Bates numbers NYU350-52.
28	A true and accurate copy of Defendant's standard reasonable accommodations request form bearing Bates numbers NYU587-97.

29	A true and accurate copy of an email exchange between Daniel Alexa and John Davidson, dated February 14, 2019, bearing Bates number NYU417.
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3. I declare under penalty of perjury the foregoing is true and correct.

Dated: New York, New York
September 17, 2021

Respectfully submitted,

By: /s/ Scott Simpson
Scott Simpson